

## REMARKS

The present Amendment responds to the Office Action dated July 29, 2008 having a shortened statutory period for response set to expire on August 29, 2008. Filed concurrently herewith is a request for a five (5) month extension of time to respond, making the present Amendment due by January 29, 2009.

In the Office Communication, claims 1 - 11 were pending. The Examiner has taken the position that the application claims three independent and distinct inventions, which have been grouped as follows:

Invention I. Claims 1 - 4

Invention II. Claims 5, 6, 8 and 9

Invention III. Claims 7, 10, and 11

Pursuant to 35 U.S.C. § 121, the Examiner has required that Applicants elect between the inventions. In effort to fully respond to the Restriction Requirement, Applicants elect to proceed with Invention I, claims 1 – 4 and select clodinafop as the single species of compound b). However, Applicants respectfully request that Invention Groups I and II be examined together for reasons more fully set forth below. Applicants have cancelled claims 7, 10, and 11, which the Examiner designated as Group III.

Applicants believe that Invention Groups I and II should be examined together because, as the Examiner will note, claims 5, 6, 8, and 9 are directed to a safener. The addition of a safener does not contribute to the synergistic effect of the two active ingredients. Accordingly, the claims in Group II do not have a utility separate from the subject matter of Group I. Moreover, Applicants submit that examining the claims in Groups I and II will not place a serious burden on the Examiner. Accordingly, it is respectfully requested that claims 1-6, 8 and 9 be examined together in the present application.

Based upon the foregoing then, Applicants submit that the pending claims are in condition for allowance and the Examiner is courteously solicited to pass this application on to allowance. No other fees are believed to be payable at this time. However, the Commissioner is authorized to debit any applicable fees from the deposit account of the undersigned, no 50-1676 in the name of Syngenta Crop Protection, Inc.

Respectfully submitted,

USPTO Customer No. 26748  
Syngenta Crop Protection, Inc.  
Patent and Trademark Dept.  
410 Swing Road  
Greensboro, NC 27409  
(336) 632-6049  
(336) 632-2012

/REBECCA A. HOWARD/  
Rebecca A. Howard  
Attorney for Applicants  
Reg. No. 51,724

**Date: January 27, 2009**

RAH  
1/27/2009